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August 20, 2021

VIA ECF

The Honorable Freda L. Wolfson, U.S.D.J.
United States District Court
Clarkson S. Fisher Federal Building & U.S. Courthouse
402 E. State Street
Trenton, New Jersey 08608

FILED UNDER SEAL

Re: Supernus Pharmaceuticals, Inc. v. Apotex Inc., et al.
Civil Action No. 20-7870 (FLW)(TJB)

Dear Chief Judge Wolfson:

This firm, together with Haug Partners LLP, represents plaintiff Supernus Pharmaceuticals, Inc. (“Supernus”) in the above-captioned matter. In light of recent developments in this case, we write to respectfully request an adjournment of the August 31, 2021 *Markman* Hearing.

In the interest of conserving judicial and party resources, streamlining discovery, and narrowing the issues to be tried in this case, Supernus has agreed to Apotex’s construction of the sole disputed claim term and withdrawn its literal infringement contentions for that claim term. Specifically, Supernus informed Apotex that it: (i) agrees—solely for the purposes of this case—to Apotex’s proposed construction of the sole disputed claim term identified in the parties’ Joint Claim Construction and Prehearing Statement (ECF No. 49, Exhibit B) (the “Disputed Term”); and (ii) withdraws its literal infringement contentions for the Disputed Term for all currently asserted claims against Apotex’s ANDA Products as currently formulated (*i.e.*, as described at Defendants’ document production stamped APOCAR0000384-385 and in Paragraph 16 of Apotex’s Counterclaims (ECF No. 12)). We further informed Apotex that Supernus intends to pursue all other theories of infringement set forth in its disclosure of infringement contentions, including infringement under the doctrine of equivalents. Supernus memorialized these updated positions in separate correspondence to Apotex’s counsel.

In view of the above, if it meets with the Court’s approval, we respectfully request that Your Honor adjourn the August 31, 2021 *Markman* Hearing.

Hon. Freda L. Wolfson, U.S.D.J.
August 20, 2021
Page 2

Thank you for Your Honor's kind attention to this matter.

Respectfully yours,



William C. Baton

cc: Hon. Tonianne J. Bongiovanni, U.S.M.J. (via ECF)
All Counsel (via e-mail)